IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 18993 of 2004

Between:

S.Arisayya, S/o Appalanarasaiah,
R/o Tokalapalli, Nidamarru Mandal, West Godavari District.

..... PETITIONER

AND

Additional Assistant Engineer (Operation) A.P.Eastern Power Distribution Co.Ltd., Nidamarru, West Godavari District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more in the nature of Writ of Mandamus directing the respondent to restore the service connection of power supply of the petitioner by declaring that the action of the respondent vide his order Lr.No.AAE/O/NDMR/F dated 19-08-2004 and disconnecting the power supply of the petitioner is highly arbitrary, illegal, violative of Principles of natural justice discriminatory violative of Art.14, 21 and 300-A of the Constitution of India.

Counsel for the Petitioner: MR.C.RAMACHANDRA RAJU

Counsel for the Respondent: MRS.M.VINOBHA DEVI (SC FOR AP TRANSCO)

The Court at the admission stage made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

Petitioner states that he obtained Service Connection of power supply bearing No.194 for the purpose of agricultural operations at Tokalapalli, Nidamarru Mandal, West Godavari District. He states that he has been regularly paying the energy consumption charges and there is absolutely no default at any point of time. While so, the impugned proceedings dated 19.08.2004 issued by the respondent has been served on the petitioner, in which it is stated that as per the proceedings of the District Collect, West Godavari in R.C.No.D6/11717/96 dated 08.08.1999, the land of the petitioner form part of Contour +5' MSL as per the map of the Principal Chief Conservator of Forests, Andhra Pradesh and that it also falls within the Bird Sanctuary of Kolleru and therefore, the electrical service connection of the petitioner will be disconnected after one week from the date of the said notice. The petitioner denies all the allegations made in the said notice and states that the land in question is his own land. It is also contended that the unilateral decision of the respondent under the impugned notice to disconnect the power supply to the service connection of the petitioner without affording any opportunity to rebut the allegations made therein, is arbitrary and illegal apart from being without jurisdiction.

A reading of the impugned notice shows that the petitioner was not issued any prior notice to rebut the allegations that the land in question forms part of Bird Sanctuary of Kolleru. It is also the specific

plea of the petitioner that the proceedings of the District Collector, West Godavari District, dated 08.08.1999 was not served on him and in the absence of the same, he cannot effectively explain the allegations in the impugned notice.

In the circumstances, I am of the view that it would be appropriate to afford an opportunity to the petitioner to meet the allegations made in the impugned notice.

The writ petition is disposed of setting aside the impugned notice with a direction to the respondent to furnish a copy of the proceedings of the District Collector, West Godavari District, Eluru in R.C.No.D6/11717/96, dated 08-08-1999, within one week from today. On receipt of the said proceedings, it is open to the petitioner to submit his explanation to the respondent treating the impugned notice as show-cause notice within one week thereafter. If such explanation is received within the time stipulated above, the respondent shall consider the same and pass appropriate orders in accordance with law.

There shall be a further direction to the respondent to restore the power supply to the petitioner's Service Connection No.194 of Tokalapalli, Nidamarru Mandal, West Godavari District forthwith.

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14-10-2004

Vs

To

1. The Additional Assistant Engineer (Operation), A.P.Eastern Power Distribution Co.Ltd., Nidamarru, West Godavari District.

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